

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JONI L. JOHNSON,	§
	§
Defendant Below-	§ No. 318, 2010
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for Kent County
STATE OF DELAWARE,	§ Cr. ID Nos. 0605024572,
	§ 0607005654, 0608024171 and
Plaintiff Below-	§ 0608009492
Appellee.	§

Submitted: August 3, 2010

Decided: September 21, 2010

Before **HOLLAND, BERGER**, and **JACOBS**, Justices.

ORDER

This 21st day of September 2010, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The appellant, Joni Johnson, filed this appeal from the Superior Court's denial of her motion for postconviction relief. The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Johnson's opening brief that her appeal is without merit. We agree and affirm.

(2) The record reflects that Johnson pled guilty in June 2007 to ten counts of forgery and theft, which were charged under four different

indictments. In exchange for her plea agreement, the State dismissed over 280 other criminal charges. Johnson conceded that she was eligible for sentencing as a habitual offender. The Superior Court immediately sentenced her to ten years at Level V incarceration, to be suspended after serving four years for decreasing levels of supervision. Johnson's direct appeal to this Court was dismissed.¹ Thereafter, she filed a motion for postconviction relief, which the Superior Court denied. This appeal followed.

(3) In her opening brief on appeal, Johnson asserts that her trial counsel was ineffective, her guilty plea was not entered knowingly or voluntarily, and she was improperly sentenced as a habitual offender. To support a claim of ineffective assistance of counsel, a defendant must demonstrate that: (a) counsel's conduct fell below an objective standard of reasonableness; and (b) there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty but would have insisted on going to trial.² A defendant must make concrete allegations of cause and actual prejudice to substantiate a claim of ineffective assistance of counsel or else risk summary dismissal.³

¹ *Johnson v. State*, 962 A.2d 233 (Del. 2008).

² *Hill v. Lockhart*, 474 U.S. 52, 58 (1985).

³ *Younger v. State*, 580 A.2d 552, 556 (Del. 1980).

(4) In the guilty plea form and in the plea colloquy, Johnson stated under oath that she understood the State was seeking to have her sentenced as a habitual offender and that she waived any right to a hearing on that issue. She expressed satisfaction with her counsel's performance and stated that she was pleading guilty because she was, in fact, guilty of the charged offenses.

(5) In the absence of clear and convincing evidence to the contrary, Johnson is bound by these statements.⁴ There is nothing in the record to support Johnson's belated contentions that she did not fully understand the potential consequences of her plea. Accordingly, we find no merit to Johnson's claim that her guilty plea and sentence was the result of her counsel's ineffective assistance.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

⁴ *Somerville v. State*, 703 A.2d 629, 632 (Del. 1997).